

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARTHA ELIZABETH, INC., a
Michigan corporation, and MARTHA
RAPP, an individual,

Plaintiffs,

Case No. 1:10-cv-1244

v.

SCRIPPS NETWORKS INTERACTIVE,
INC., an Ohio corporation, SCRIPPS
NETWORKS, LLC, a Delaware limited
liability company, COOKING
CHANNEL, LLC, a Delaware limited
liability company, and B360 MEDIA,
Inc., a Canadian corporation,

Hon. Paul L. Maloney

**ORAL ARGUMENT, HEARING AND
EXPEDITED CONSIDERATION
REQUESTED**

Defendants.

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs Martha Elizabeth, Inc. ("Bitchen Kitchen"), and Martha Rapp ("Rapp")
move for entry of an injunctive order against Defendants pursuant to Fed. R. Civ. P. 65.
In support of their motion, Plaintiffs rely on the facts and arguments set forth in the
attached Brief in Support.

WHEREFORE, Plaintiffs respectfully request that the Court grant its motion and:

1. Issue a preliminary (and thereafter permanent) injunction enjoining
Defendants, their officers, directors, agents, directors, attorneys, representatives,
successors, affiliates, subsidiaries and assigns, and all those in concert, privity or
participation with any of them from using The Bitchen Kitchen Mark, or any mark
confusingly similar, in the advertising, promoting or selling of any lifestyle media

product or program, including but not limited to television shows, cookbooks, websites, online retail services, retail store services, in social media, bidding on key ad words or otherwise manipulating results in internet search engines, and from infringing or falsely designating the origin of The Bitchen Kitchen Mark;

2. Issue a preliminary (and thereafter permanent) injunction enjoining Defendants from using or seeking to register, as a trademark, trade name, corporate name or domain name, The Bitchen Kitchen Mark or any confusingly similar marks or otherwise engaging in acts or conduct that would cause confusion as to the source, sponsorship or affiliation of Plaintiffs with Defendants;

3. Issue an Order directing the Defendants to immediately remove all uses of The Bitchen Kitchen Mark and any other marks confusingly similar from all aspects of their businesses, including but not limited to websites, cable television stations, publications, social media, newsletters, and/or other media owned, operated or controlled by Defendants;

4. Issue an Order directing the Defendants to transfer to Plaintiffs all domain names, social media identifiers and personal and public fan pages on Facebook®, MySpace®, Twitter®, YouTube®, or other social media sites, that either publish or contain Plaintiffs' The Bitchen Kitchen Mark or any confusingly similar mark;

5. Declare that Plaintiffs' rights in The Bitchen Kitchen Mark are valid and enforceable, and have been infringed by Defendants;

6. Declare that Defendants have willfully and intentionally infringed The Bitchen Kitchen Mark under the Lanham Act and Michigan common law;

7. Issue an Order directing Defendants to file with this Court and serve on Plaintiffs, within 30 days after service of the injunction, a report in writing under oath setting forth in detail the manner and form in which Defendants have complied with the injunction;

8. Award Plaintiffs their costs of the suit together with reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a);

9. Award Plaintiffs costs, fees and other charges to the maximum extent permissible, including prejudgment interest as allowed;

10. Award Plaintiffs such other and further relief as the Court may deem just, fair and equitable.

Plaintiffs sought concurrence from Defendants pursuant to Local Rule 7.1(d). Specifically, counsel for Plaintiffs phoned B360 Media directly at (514) 664-4600, left a message, and sent an email. Counsel for Plaintiffs phoned and spoke with counsel for the Scripps Defendants. After explaining the legal basis for the motion, Plaintiffs' counsel did not obtain concurrence in the requested relief.

Respectfully submitted,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

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Dated: February 8, 2011

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2011, I electronically filed the foregoing document with the Clerk of the Court using the ECF system.

I served a copy on Defendants as follows:

John Blattner, counsel for the Scripps Defendants, by email per agreement: blattner@butzel.com

Joshua Dorsey, B360 Media, Inc.:

by email [jd@b360media.com]

and by Federal Express on February 9, 2011 to:

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CANADA

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